

Assembly Bill No. 1747

CHAPTER 341

An act to amend Section 1789.30 of the Civil Code, and to amend Sections 18416, 18631.7, and 21006 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 8, 2007. Filed with
Secretary of State October 8, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1747, Committee on Revenue and Taxation. Franchise Tax Board: notices: last known address: check cashers: informational return: Taxpayers' Bill of Rights.

(1) The Personal Income Tax Law and the Corporation Tax Law authorize the Franchise Tax Board to administer and collect taxes imposed by those laws, and, among other things, require the board to send any notice addressed to a taxpayer by first-class mail postage prepaid but do not specify the address to which required notices must be sent. In this connection, the federal income tax law requires the Internal Revenue Service to mail a notice to the taxpayer at the taxpayer's last known address, as defined.

This bill, in specified conformity to federal income tax laws, would define "last known address" as the address that appears on the taxpayer's last tax return filed with the Franchise Tax Board, as provided, unless the taxpayer provides clear and concise written notification of a different address.

(2) Existing law requires a check casher, as defined, who cashes checks, as defined, for the same person in an aggregate amount exceeding \$10,000 within one calendar year, as provided, to file an informational return with the Franchise Tax Board, as specified. Existing law imposes civil penalties on persons who fail to file these returns or fail to supply all of the information required by these returns. In the case of willful failures, existing law makes these failures a felony.

This bill would exclude one-party checks, payroll checks, and government checks, as defined, from those checks subject to the filing requirement.

(3) The Katz-Harris Taxpayers' Bill of Rights Act provides specified protections for taxpayers for purposes of, among other things, determining their correct tax liability. The act requires the Franchise Tax Board to perform annually a systematic identification of areas of recurrent taxpayer noncompliance and report its findings to the Legislature on October 1 of each year.

This bill would require the board to report its findings to the Legislature on December 1 of each year.

The people of the State of California do enact as follows:

SECTION 1. Section 1789.30 of the Civil Code is amended to read:

1789.30. (a) (1) Every check casher, as applicable to the services provided, shall post a complete, detailed, and unambiguous schedule of all fees for (A) cashing checks, drafts, money orders, or other commercial paper serving the same purpose, (B) the sale or issuance of money orders, and (C) the initial issuance of any identification card. Each check casher shall also post a list of valid identification which is acceptable in lieu of identification provided by the check casher. The information required by this section shall be clear, legible, and in letters not less than one-half inch in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the check casher's premises.

(2) A check casher may be required to file a return required by Section 18631.7 of the Revenue and Taxation Code.

(b) (1) Except as provided in paragraph (2), this section shall become operative December 31, 2004.

(2) (A) Except as provided in subparagraph (B), paragraph (2) of subdivision (a) shall apply to checks cashed on or after January 1, 2006.

(B) The amendments to this section made by the act adding this subparagraph shall become operative on January 1, 2008.

SEC. 2. Section 18416 of the Revenue and Taxation Code is amended to read:

18416. (a) Unless expressly otherwise provided in this part, any notice may be given by first-class mail postage prepaid.

(b) For purposes of this part, any notice mailed to a taxpayer shall be sufficient if mailed to the taxpayer's last known address.

(c) The last known address shall be the address that appears on the taxpayer's last return filed with the Franchise Tax Board, unless the taxpayer has provided to the Franchise Tax Board clear and concise written or electronic notification of a different address, or the Franchise Tax Board has an address it has reason to believe is the most current address for the taxpayer.

SEC. 3. Section 18631.7 of the Revenue and Taxation Code is amended to read:

18631.7. (a) Any check casher engaged in the trade or business of cashing checks that, in the course of that trade or business, cashes checks other than one-party checks, payroll checks, or government checks totaling more than ten thousand dollars (\$10,000) in one transaction or two or more transactions for the same person within the calendar year, shall file an informational return with the Franchise Tax Board with respect to that transaction or transactions.

(b) The return required in subdivision (a) shall be filed no later than 90 days after the end of the calendar year and in the form and manner prescribed by the Franchise Tax Board, and shall, at a minimum, contain both of the following:

(1) The name, address, taxpayer identification number, and any other identifying information of the person presenting the check that the Franchise Tax Board deems necessary.

(2) The amount and date of the transaction or transactions.

(c) For purposes of this section the following definitions apply:

(1) Except as otherwise provided, “check casher” means a check casher as defined under Section 1789.31 of the Civil Code.

(2) “Checks” includes warrants, drafts, money orders, and other commercial paper serving the same purposes, including payroll checks, government checks, and one-party checks.

(3) “Government check” means a check issued by a federal, state, or local governmental entity and treated as a government check pursuant to Section 1789.35 of the Civil Code for fee-setting purposes.

(4) “Payroll check” means a check for wages subject to withholding pursuant to Section 13020 of the Unemployment Insurance Code and treated as a payroll check pursuant to Section 1789.35 of the Civil Code for fee-setting purposes.

(5) “One-party check” means a check drawn upon the maker’s account and presented by the maker.

(d) With respect to a person who fails to file the report required by this section or fails to include all of the information required to be shown on that report, both of the following apply:

(1) Sections 6721 and 6724 of the Internal Revenue Code, as those sections read on January 1, 2005, apply, except that the “Franchise Tax Board” is substituted for the “secretary” in each place it appears in those sections.

(2) If the failure was willful, the person, upon conviction, shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000) or, in the case of a corporation, not more than one hundred thousand dollars (\$100,000), by imprisonment in a county jail for not more than one year, by imprisonment in the state prison, or by both that fine and imprisonment, together with the costs of prosecution.

SEC. 4. Section 21006 of the Revenue and Taxation Code is amended to read:

21006. (a) The board shall perform annually a systematic identification of areas of recurrent taxpayer noncompliance and shall report its findings to the Legislature on December 1 of each year.

(b) As part of the identification process described in subdivision (a), the board shall do both of the following:

(1) Compile and analyze sample data from its audit process, including, but not limited to, all of the following:

(A) The statute or regulation violated by the taxpayer.

(B) The amount of tax involved.

(C) The industry or business engaged in by the taxpayer.

(D) The number of years covered in the audit period.

(E) Whether professional tax preparation assistance was utilized by the taxpayer.

(F) Whether income tax or bank and corporation tax returns were filed by the taxpayer.

(2) Conduct an annual hearing before the board itself where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Personal Income Tax Law or the Corporation Tax Law which may further facilitate achievement of the legislative findings.

(c) The board shall include in its report recommendations for improving taxpayer compliance and uniform administration, including, but not limited to, all of the following:

- (1) Changes in statute or board regulations.
- (2) Improvement of training of board personnel.
- (3) Improvement of taxpayer communication and education.
- (4) Increased enforcement capabilities.